

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Wayne Valentine
Acting Assistant Administrator for Enforcement

DATE: February 11, 1977

FROM : Jerry Strickler, Deputy Chief
Operations for Europe and the Middle East

SUBJECT: Central Intelligence Agency

Reference is made to the February 7, 1977, memorandum from Assistant Administrator for Intelligence, William A. Fink, to Acting Deputy Administrator, Donald E. Miller, which you asked me to comment on. I have conceptually discussed my comments with the Deputy Chiefs of the other foreign desks, and with ENI, and they concur.

The memorandum entitled Special Coordination Committee Working Group (SCCWG) failed to recognize and address the designated role of the CIA in the collection of drug intelligence, namely, the collection of strategic intelligence information. By strategic intelligence information, I mean that drug intelligence which relates to the external drug trafficking environment rather than that which is enforcement or prosecution oriented. Examples of strategic intelligence information are: Is opium being grown in a particular country? If so, where and to what extent? What are the growing seasons? Is it a violation of host-country laws to grow opium? What is the penalty for violating the law? What is the capability of host-country enforcement and regulatory agencies to control illicit production? What agencies participate in control activities? What are their specific authorities? What is the host-countries underlying attitude and commitment to drug control? etc.

Although, the CIA is eminently equipped to collect strategic intelligence information, and although reliable strategic intelligence information is desperately needed by DEA and other Federal agencies charged with drug supply/demand reduction responsibilities, the CIA has continually directed the bulk of its drug intelligence collection resources toward the



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collection of operational and tactical type intelligence--namely, that which relates to drug violators, drug trafficking networks, specific shipments, etc. This is the kind of intelligence which is case related; therefore, the manner in which it is collected is critical. Inappropriate collection methods can negate many man-years of potentially productive enforcement effort. For more specific commentary on this critical problem, see the attached undated memorandum which, as you know, has been signed by and reflects the unanimous opinion of all of the senior officials of DEA's Office of Enforcement.

The Domestic Council Drug Abuse Task Force recognized the intelligence needs for the Federal supply/demand reduction effort and, in fact, addressed them in its September 1975 White Paper on Drug Abuse which was endorsed by the President. It was the Council's specific intention that the CIA focus its resources on the collection of strategic drug intelligence information. The CIA has failed to comply and has instead accelerated its operational drug collection activities.

To attempt to evaluate the present utilization of CIA's covert drug intelligence resources, one must look at the gains and losses derived as a result of their efforts.

GAINS

The attachment to the Assistant Administrator for Intelligence William C. Fink's February 7, 1977, memorandum enumerates a number of supply reduction gains alleged to have been achieved as a result of CIA efforts. With the exception of those stated gains which related to the collection, analysis, preparation and production of strategic intelligence information, the alleged typical accomplishments, when viewed in light of the needs of the U.S. supply/demand reduction community, had little positive impact or potential positive impact on the traffic.

LOSSES

Of greater evaluative significance is the supply reduction losses incurred by DEA as a result of CIA operational drug intelligence activities. Some typical examples of DEA's losses follow:

- o Recently, a DEA fugitive who is a major international drug trafficker was apprehended abroad. The apprehension resulted from DEA notifying the arresting authorities of the fugitive status of the trafficker. Ministerial level officials, in the country where the apprehension took place, offered to deport the fugitive to the U.S. for prosecutive purposes. Before the offer could be accepted, CIA gave notice that the fugitive had been subject to a CIA coordinated electronic surveillance which, subsequent to a discovery motion, would likely result in a dismissal of charges. The offer of deportation was never accepted and the trafficker was released.
- o A key heroin trafficker was indicted after more than 20 years of investigative and case development effort. Subsequent to obtaining the indictment, it was learned that the trafficker was the principal in a unilateral CIA coordinated electronic surveillance. The purpose of the surveillance was to identify other top level traffickers in contact with the indicted principal trafficker. A result of this unilateral CIA operational intelligence probe was the immunization of the target trafficker from U.S. prosecution. In addition, the collection effort also provided immunization for all of the numerous traffickers who had made contact with the principal.

- o Subsequent to indictment and arrest, a trafficker agreed to cooperate and testify on behalf of the U.S. Government. As a result of this cooperation, preparations were made to indict approximately 20 top level international drug traffickers. Prior to obtaining the indictment, the attorney for the cooperating defendant filed for discovery. This effort surfaced the prior existence of a CIA coordinated electronic surveillance. Charges against the cooperating individual were promptly dismissed; the cooperating individual declined further cooperation; and plans to indict the approximately 20 traffickers were terminated.
- o The foreign based head of a multi-national many faceted drug trafficking organization was the target of a CIA sponsored electronic surveillance. As a result of the surveillance, the roles and identities of over fifty members of the organization became known. Sufficient evidence was obtained, prior to the intelligence collected by the CIA, to indict the head of the organization along with the head of a major domestic drug distribution network. A Federal prosecutor was prepared to secure the indictment until he learned of the CIA intelligence collection effort. He declined to indict. Since then all efforts to indict this key violator and those members of his organization surfaced by the CIA surveillance have ceased. The violator, one of the most significant traffickers known to DEA, continues to operate.

The foregoing summaries reflect impediments to the drug supply reduction effort which have been engendered by CIA electronic surveillance initiated for the purpose of acquiring intelligence of a tactical and operational nature. The incidents summarized below exemplify further impediments to the reduction effort which stem from those CIA non-electronic covert collection policies which inadvertently placed CIA in a position of competing with DEA for intelligence sources.

- o A police official in a foreign country facilitated the flow of drugs into the U.S. by extending his protection to virtually all major violators. As a result of an intensified effort, it became possible to indict the official and to bring him before justice in the United States. At this point it became known that he had been an informant on narcotics affairs for the CIA. It then became necessary to plea bargain with the subject. He was allowed to plea guilty to a lesser charge rather than stand trial on his major offenses. The information he had supplied to CIA was of minimal value to law enforcement.
- o A foreign based narcotics trafficker was recruited by CIA who provided him with false documentation with which to travel to the U.S. for purposes of debriefing. This was in violation of U.S. laws as well as the laws of the host country and of the countries he was instructed to transit through. Enroute to the U.S. he was arrested in a third country on the basis of the false documents. In defense, the trafficker honestly admitted that he was working for principals who allegedly were "American drug law enforcement." The arresting officials contacted DEA in-country personnel and accused them of acting in bad faith and of illegally performing in a unilateral manner. DEA queried their CIA counterparts who admitted their involvement and, since the informant had been surfaced, offered to turn him over to DEA. At the loss of its own prestige and good will, DEA did not identify the CIA's role in this matter.

- o An inactive DEA Source of Information in one country appeared at a U.S. Embassy in a distant foreign country asking to speak with the DEA representative. The Embassy receptionist steered him instead to the CIA office, which then recruited and used him without referring to DEA.
- o A DEA supported host country surveillance of a major narcotics violator was nullified when the target discovered that he was under surveillance. The surveillance he discovered was being unilaterally conducted by CIA.
- o In one major investigation CIA used, without DEA permission, confidential DEA information as blackmail material to induce recruitment of the DEA target. The recruitment attempt was unsuccessful and compromised the investigation.
- o A major DEA target in one country was recruited by CIA, who used DEA confidential information to provide protection to the target. When the facts became known it was clear that commitments made by CIA precluded successful prosecution of the criminal.

The fact that CIA is capable of collecting significant operational/tactical drug intelligence not available to DEA is no criteria for requesting their collection assistance. It must be realized that their collection superiority is based on the fact that they do not subject themselves to the same legal restrictions which are imposed on DEA in acquiring operational/tactical intelligence. It is precisely the collection methods they use, however, which frequently render the intelligence unuseable.

If it were DEA's desire, I have no doubt that we could be as fully capable of destroying the evidentiary value of intelligence as is the CIA. As professional law enforcement officers, DEA's agents are trained to recognize that meticulous attention must be paid to the manner in which intelligence is collected or preserved so that it can be successfully converted into information

and into evidence. Failure to recognize and to follow this requirement would no doubt result in a DEA agent being formally reprimanded. The CIA has not been trained to appreciate DEA needs or the requirements of our criminal justice system, they cannot comply with our collection standards, and they should be discouraged from taking any action that would ultimately render valuable intelligence unuseable for development into evidence.

I think it is absolutely necessary for the Administrator and the Assistant Administrator for Intelligence to have these facts brought to their attention. It is imperative that they understand the objectives and intelligence collection concerns of the Office of Enforcement so that they can properly articulate these objectives and concerns when representing DEA at meetings of the SCCWG or other relevant working groups.

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